

EDUCATION

STATE BOARD OF EDUCATION

Interdistrict Public School Choice

Proposed Readoption: N.J.A.C. 6A:12

Authorized By: New Jersey State Board of Education, Kimberley Harrington, Acting Commissioner, Acting Secretary.

Authority: N.J.S.A. 18A:36B-14 through 24.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2016-202.

Submit written comments by February 17, 2017, to:

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The agency proposal follows:

Summary

The Department of Education (Department) proposes to readopt N.J.A.C. 6A:12, Interdistrict Public School Choice, without amendments. The chapter is designed to assist school districts interested in applying to and implementing the Interdistrict Public School Choice program (choice program).

The choice program was originally established by the State Board of Education in October 1999 as a five-year pilot. The rules were amended in December 2000 to conform to N.J.S.A. 18A:36B-1 et seq., the Interdistrict Public School Program Act of 1999, which became effective January 18, 2000, and expired on June 30, 2005. The program continued under the rules that were amended again in December 2004. The chapter was readopted without amendment in 2009 with an expiration date of December 21, 2016. The Interdistrict Public School Choice Act was amended in 2010 to expand the program to additional school districts; accordingly, N.J.A.C. 6A:12 was amended in 2012. Pursuant to N.J.S.A. 52:14B-5.1, the rules were scheduled to expire on December 21, 2016. As the agency submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date is extended 180 days to June 19, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2).

The choice program has been in operation for six years in its expanded form and has experienced tremendous growth in the number of participating school districts and student enrollments. The choice program has been successful in achieving its purpose: to increase options and flexibility for parents and students in selecting a school that best meets the needs of each student, thereby improving educational opportunities for New Jersey citizens.

The Department proposes at this time to readopt the chapter without amendment to continue the rules. The Department is continuing to assess the efficiency of the program and after a thorough review will propose any needed amendments.

The following Summary provides an overview of each subchapter and section.

Subchapter 1. General Provisions

N.J.A.C. 6A:12-1.1 Purpose

This section establishes the chapter's purpose, which is to provide students and parents with options and flexibility in selecting a school that best meets the needs of each student.

N.J.A.C. 6A:12-1.2 Scope

The section establishes the chapter's scope, which explains school district eligibility to participate in the Interdistrict Public School Choice program, prohibits choice districts from maintaining a tuition program and a choice program in the same grade levels open to choice students, and allows school districts in sending/receiving relationships to participate in the choice program, unless otherwise legally prohibited.

N.J.A.C. 6A:12-1.3 Definitions

The section defines terms used throughout the chapter.

Subchapter 2. Choice Program Eligibility Criteria

The subchapter establishes the eligibility criteria for school district and student participation in the choice program.

N.J.A.C. 6A:12-2.1 Eligibility criteria for district boards of education

The section prescribes the eligibility criteria for school districts and students that seek to participate in the choice program.

N.J.A.C. 6A:12-2.2 Eligibility criteria for students

This section establishes eligibility criteria for students interested in applying to attend a choice district.

Subchapter 3. Choice District Application Procedures

This subchapter establishes the application process for a district board of education interested in applying to become a choice district.

N.J.A.C. 6A:12-3.1 Choice program application procedures for a district board of education

The section requires a school district to complete a choice program application and submit it pursuant to N.J.S.A. 18A:36B-17.

Subchapter 4. Choice Student Admissions

This subchapter provides the rules governing the admissions of choice students.

N.J.A.C. 6A:12-4.1 Sending district procedures

The section provides the procedures for calculation of a sending district's enrollment, for admissions lotteries, and for a sending district to limit the number of students participating in the choice program through the adoption of a resolution. The section also prohibits a sending district from restricting the participation of students in the choice program, if the students provide written notice of intent to apply to a specialized educational program that is offered by the choice district and not by the sending district.

N.J.A.C. 6A:12-4.2 Choice district procedures for students meeting the eligibility requirements

The section requires choice districts to admit choice students on a space-available basis. The section also prohibits choice districts from imposing admission criteria upon prospective choice students other than the statutory criteria. The section further allows choice districts to give enrollment preference to siblings of enrolled students, and requires a choice district to hold a public lottery if it receives more applications than available spaces.

N.J.A.C. 6A:12-4.3 Choice student application procedures

The section requires the Commissioner to establish a student application timeline each year by September 1. The section further requires the choice district to provide to the Department electronic notification of the number of students who enroll and requires the notification to be

made within five business days of the due date in the Commissioner-established timeline. The section also requires the choice district to provide to each sending district board of education written notification of each enrollment notice from a student who is a resident of the sending district and requires the notification to be made within 10 days of the student application due date in the Commissioner-established timeline. Lastly, the section allows a choice student to seek, from the Commissioner, by a showing of good cause, a waiver of the student application deadlines.

N.J.A.C. 6A:12-4.4 Choice district procedures for students not meeting eligibility requirements

The section allows a choice district to fill its seats for the choice program with students who do not meet the eligibility requirements, if the choice district already has exhausted the list of applicants who meet the eligibility requirements and the waiting list. The section further allows choice districts to accept applications from public school students who do not meet the eligibility requirements and/or nonpublic school students up until the Commissioner-set deadline. The section also requires a choice district to send a letter with required information to the student's parent when the choice district receives an application from a public school student who does not meet the eligibility requirements and/or a nonpublic school student.

Subchapter 5. Choice Student Post Enrollment Policies

This subchapter provides the rules regarding choice students once they have enrolled in a choice district.

N.J.A.C. 6A:12-5.1 Choice student enrollment

The section allows choice students to remain enrolled in a choice district without submitting annual or periodic applications. The section also obligates a choice district to retain an accepted choice student until graduation or the choice student voluntarily withdraws, even if

the choice program is terminated in the choice district or Statewide. The section further allows a student who resides in a choice district and moves during the school year to remain in the choice district until the end of the school year and also allows the student to apply to the choice program as a funded student for the next school year.

Subchapter 6. Appeals

This subchapter establishes the rules governing appeals to the Commissioner.

N.J.A.C. 6A:12-6.1 Appeals from Commissioner determinations

This section allows an eligible choice district to appeal a determination by the Commissioner not to grant an eligible district's application for participation in the choice program according to N.J.A.C. 6A:4, Appeals.

N.J.A.C. 6A:12-6.2 Appeals from denial of enrollment

The section allows a parent or legal guardian to appeal, to the Commissioner, the denial of a choice student application for enrollment in a choice district in accordance with N.J.A.C. 6A:3, Controversies and Disputes.

Subchapter 7. Administrative Responsibilities of Choice Districts

This subchapter establishes the administrative responsibilities of choice districts.

N.J.A.C. 6A:12-7.1 General provisions

The section requires choice districts to accept all credits toward graduation awarded by another district board of education for each accepted choice student and to award a diploma to a choice student if he or she meets the graduation requirements of the choice district and the State. The section also requires choice districts to establish and maintain a parent information center and to file reports with the Department at the end of each application cycle that include

demographic and student participation information, fiscal and programmatic information, and updates on the number of available openings.

Subchapter 8. Transportation

This subchapter governs transportation of students enrolled in the choice program.

N.J.A.C. 6A:12-8.1 Student transportation

The section makes the sending district responsible for transportation of enrolled choice students who are eligible for transportation services both to and from the choice school in which the student is accepted. The section also requires sending districts to provide transportation or aid in lieu of transportation in accordance with N.J.S.A. 18A:36A-13 and N.J.A.C. 6A:27-4.

Subchapter 9. Funding

This subchapter makes provision for funding of students participating in the choice program.

N.J.A.C. 6A:12-9.1 General provisions

The section stipulates choice students qualify for State aid pursuant to N.J.S.A. 18A:36B-14 et seq., and the sending district will receive transportation aid pursuant to N.J.A.C. 6A:12-9.1. The section also requires the sending district to maintain fiscal responsibility for any choice student enrolled in or determined to require a private day or residential school, except the choice district will be required to contribute State aid received for the student and the sending district will be responsible for the balance.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The Interdistrict Public School Choice Program has proven to be beneficial for choice districts, choice students, and their parents. In 2016-2017, there are 131 operating choice districts serving 5,200 students. The choice students benefit from attending a school district with rigorous academics and a culture that better meets their individual needs. In addition, students who reside in choice districts, their parents, and their communities have benefited from many of the following: innovative programs; expansion of opportunities in STEM, the arts, and career-oriented programs; and enrichment of the school community through the addition of students from different backgrounds and with experiences different from those of the choice districts' resident students.

Economic Impact

The rules proposed for readoption provide economic benefits to the school districts accepting out-of-district students through the Interdistrict Public School Choice Program. For each enrolled choice student, the choice district receives choice aid equal to the per-pupil amount paid by local property tax dollars, plus the amount of State aid attributable to the choice student.

Federal Standards Statement

The rules proposed for readoption do not exceed Federal standards as there are no Federal laws or regulations that impact the choice program.

Jobs Impact

The Department does not expect the rules proposed for readoption will have an impact on the generation or loss of jobs.

Agriculture Industry Impact

The rules proposed for readoption will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for readoption do not impose reporting, recordkeeping, or other compliance requirements on small businesses as defined by the Regulatory Flexibility Act at N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption affect public school districts that voluntarily participate in the Interdistrict School Choice Program and sending school districts.

Housing Affordability Impact Analysis

The rules proposed for readoption will have an insignificant impact on the affordability of housing in New Jersey. There is an extreme unlikelihood the rules proposed for readoption would evoke a change in the average costs associated with housing because the rules govern affected school districts that voluntarily participate in the Interdistrict School Choice Program and sending school districts.

Smart Growth Development Impact Analysis

The rules proposed for readoption will have an insignificant impact on smart growth. There is an extreme unlikelihood the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules govern school districts that voluntarily participate in the Interdistrict School Choice Program and sending districts.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 6A:12.